

Calendar No. 458

108TH CONGRESS
2^D SESSION**H. R. 1997**

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2004

Received

MARCH 10, 2004

Read the first time

MARCH 11, 2004

Read the second time and placed on the calendar

AN ACT

To amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Unborn Victims of Vio-

5 lence Act of 2004” or “Laci and Conner’s Law”.

1 **SEC. 2. PROTECTION OF UNBORN CHILDREN.**

2 (a) IN GENERAL.—Title 18, United States Code, is
3 amended by inserting after chapter 90 the following:

4 **“CHAPTER 90A—PROTECTION OF UNBORN**
5 **CHILDREN**

“Sec.

“1841. Protection of unborn children.

6 **“§ 1841. Protection of unborn children**

7 “(a)(1) Whoever engages in conduct that violates any
8 of the provisions of law listed in subsection (b) and thereby
9 causes the death of, or bodily injury (as defined in section
10 1365) to, a child, who is in utero at the time the conduct
11 takes place, is guilty of a separate offense under this sec-
12 tion.

13 “(2)(A) Except as otherwise provided in this para-
14 graph, the punishment for that separate offense is the
15 same as the punishment provided under Federal law for
16 that conduct had that injury or death occurred to the un-
17 born child’s mother.

18 “(B) An offense under this section does not require
19 proof that—

20 “(i) the person engaging in the conduct had
21 knowledge or should have had knowledge that the
22 victim of the underlying offense was pregnant; or

23 “(ii) the defendant intended to cause the death
24 of, or bodily injury to, the unborn child.

1 “(C) If the person engaging in the conduct thereby
2 intentionally kills or attempts to kill the unborn child, that
3 person shall instead of being punished under subpara-
4 graph (A), be punished as provided under sections 1111,
5 1112, and 1113 of this title for intentionally killing or at-
6 tempting to kill a human being.

7 “(D) Notwithstanding any other provision of law, the
8 death penalty shall not be imposed for an offense under
9 this section.

10 “(b) The provisions referred to in subsection (a) are
11 the following:

12 “(1) Sections 36, 37, 43, 111, 112, 113, 114,
13 115, 229, 242, 245, 247, 248, 351, 831, 844(d), (f),
14 (h)(1), and (i), 924(j), 930, 1111, 1112, 1113,
15 1114, 1116, 1118, 1119, 1120, 1121, 1153(a),
16 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512,
17 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B),
18 and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116,
19 2118, 2119, 2191, 2231, 2241(a), 2245, 2261,
20 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A,
21 and 2441 of this title.

22 “(2) Section 408(e) of the Controlled Sub-
23 stances Act of 1970 (21 U.S.C. 848(e)).

24 “(3) Section 202 of the Atomic Energy Act of
25 1954 (42 U.S.C. 2283).

1 “(c) Nothing in this section shall be construed to per-
2 mit the prosecution—

3 “(1) of any person for conduct relating to an
4 abortion for which the consent of the pregnant
5 woman, or a person authorized by law to act on her
6 behalf, has been obtained or for which such consent
7 is implied by law;

8 “(2) of any person for any medical treatment of
9 the pregnant woman or her unborn child; or

10 “(3) of any woman with respect to her unborn
11 child.

12 “(d) As used in this section, the term ‘unborn child’
13 means a child in utero, and the term ‘child in utero’ or
14 ‘child, who is in utero’ means a member of the species
15 homo sapiens, at any stage of development, who is carried
16 in the womb.”.

17 (b) CLERICAL AMENDMENT.—The table of chapters
18 for part I of title 18, United States Code, is amended by
19 inserting after the item relating to chapter 90 the fol-
20 lowing new item:

“90A. Protection of unborn children 1841”.

21 **SEC. 3. MILITARY JUSTICE SYSTEM.**

22 (a) PROTECTION OF UNBORN CHILDREN.—Sub-
23 chapter X of chapter 47 of title 10, United States Code
24 (the Uniform Code of Military Justice), is amended by in-

1 serring after section 919 (article 119) the following new
2 section:

3 **“§ 919a. Art. 119a. Death or injury of an unborn child**

4 “(a)(1) Any person subject to this chapter who en-
5 gages in conduct that violates any of the provisions of law
6 listed in subsection (b) and thereby causes the death of,
7 or bodily injury (as defined in section 1365 of title 18)
8 to, a child, who is in utero at the time the conduct takes
9 place, is guilty of a separate offense under this section
10 and shall, upon conviction, be punished by such punish-
11 ment, other than death, as a court-martial may direct,
12 which shall be consistent with the punishments prescribed
13 by the President for that conduct had that injury or death
14 occurred to the unborn child’s mother.

15 “(2) An offense under this section does not require
16 proof that—

17 “(i) the person engaging in the conduct had
18 knowledge or should have had knowledge that the
19 victim of the underlying offense was pregnant; or

20 “(ii) the accused intended to cause the death of,
21 or bodily injury to, the unborn child.

22 “(3) If the person engaging in the conduct thereby
23 intentionally kills or attempts to kill the unborn child, that
24 person shall, instead of being punished under paragraph
25 (1), be punished as provided under sections 880, 918, and

1 919(a) of this title (articles 80, 118, and 119(a)) for in-
2 tentionally killing or attempting to kill a human being.

3 “(4) Notwithstanding any other provision of law, the
4 death penalty shall not be imposed for an offense under
5 this section.

6 “(b) The provisions referred to in subsection (a) are
7 sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926,
8 and 928 of this title (articles 118, 119(a), 119(b)(2),
9 120(a), 122, 124, 126, and 128).

10 “(c) Nothing in this section shall be construed to per-
11 mit the prosecution—

12 “(1) of any person for conduct relating to an
13 abortion for which the consent of the pregnant
14 woman, or a person authorized by law to act on her
15 behalf, has been obtained or for which such consent
16 is implied by law;

17 “(2) of any person for any medical treatment of
18 the pregnant woman or her unborn child; or

19 “(3) of any woman with respect to her unborn
20 child.

21 “(d) In this section, the term ‘unborn child’ means
22 a child in utero, and the term ‘child in utero’ or ‘child,
23 who is in utero’ means a member of the species homo sapi-
24 ens, at any stage of development, who is carried in the
25 womb.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of such subchapter is amended by insert-
3 ing after the item relating to section 919 the following
4 new item:

“919a. 119a. Death or injury of an unborn child.”.

Passed the House of Representatives February 26,
2004.

Attest:

JEFF TRANDAHL,

Clerk.

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